

Message Text

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ORIGIN L-03

INFO OCT-01 EA-07 ISO-00 OES-06 INR-07 ACDA-07 AGRE-00
AID-05 CEA-01 CEQ-01 CG-00 CIAE-00 COME-00
DLOS-09 DODE-00 DOTE-00 EB-08 EPA-01 ERDA-05
FEAE-00 FMC-01 TRSE-00 H-01 INT-05 IO-13 JUSE-00
NSAE-00 NSC-05 NSF-01 OMB-01 PA-01 PM-04 PRS-01
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TO AMEMBASSY WELLINGTON

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E.O. 11652: N/A

TAGS: PBOR, PLOS, EFIS

SUBJECT: LIMITS OF THE US FISHERY CONSERVATION ZONE IN
AREAS OF THE WESTERN PACIFIC

RE F: STATE 42641

1) EMBOFF CALLED ON DEPT. TO GIVE GOVERNMENT OF NEW ZEALAND'S
PRELIMINARY REACTION TO ESTABLISHMENT OF FISHERY CONSERVA-
TION ZONE BY USG. AND TO POINTS CONTAINED IN NON-PAPER GIVEN
GNZ AND REPORTED IN REFTL.

2) EMBOFF REPORTED THAT GNZ WANTED TO EXPRESS ITS GRATITUDE
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TO THE USG FOR THE CONSULTATIONS WHICH HAD OCCURRED AND
FOR THE POSITION OF MINIMIZING DISPUTED ISLAND PROBLEMS WHICH
THE USG HAD TAKEN. EMBOFF EXPRESSED HIS GOVERNMENT'S HOPE
THAT CONSULTATIONS ON AN INFORMAL BASIS COULD CONTINUE ON
THESE ISSUES. EMBOFF ALSO RECALLED THE USG HAD PRESENTED THE
NEW ZEALAND GOVERNMENT WITH A PAPER WHICH SOUGHT AN UNDER-
STANDING ON FOUR POINTS:

1) NEITHER STATE WILL ESTABLISH A FISHERY CONSERVATION ZONE AROUND DISPUTED ISLANDS, SO LONG AS THE OTHER STATE DOES NOT DO SO.

2) APPLICATION OF THE PRINCIPLE OF EQUIDISTANCE CONFORMS TO EQUITABLE PRINCIPLES IN THE CASE OF THE PACIFIC ISLANDS INVOLVED.

3) IN PLACES WHERE THERE IS AN ISLAND OF ONE STATE OPPOSING AN ISLAND OF THE OTHER STATE, THE PRINCIPLE OF EQUIDISTANCE WILL BE USED TO DETERMINE THE LIMITS OF FISHERY JURISDICTION.

4) IN PLACES WHERE THERE IS AN ISLAND OF ONE STATE OPPOSING AN ISLAND WHICH BOTH STATES CLAIM, THE ZONE AROUND THE UNDISPUTED ISLAND WILL BE ESTABLISHED ONLY UP TO THE POINTS WHERE THE EQUIDISTANCE LINE BETWEEN THE TWO ISLANDS WOULD THEORETICALLY COME INTO EFFECT.

3) EMBOFF NOTED THAT POINTS 1 AND 4 ABOVE GAVE THE NEW ZEALAND GOVERNMENT SOME PROBLEMS AND THAT GNZ FOUND THE USG POSITION SOMEWHAT AT VARIANCE WITH THE POSITION THE USG AND NEW ZEALAND TOOK IN COMMON REGARDING PARAGRAPH 2 OF THE TRANSITIONAL PROVISION OF THE RSNT OF THE LAW OF THE SEA CONFERENCE.

4) USG OFFICIALS NOTED THAT THE USG POSITION ON THE TRANSITIONAL PROVISION HAD NOT CHANGED. ALSO, USG OFFICIALS LIMITED OFFICIAL USE

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MADE THE POINT THAT FOREBEARANCE IN CLAIMING A ZONE AROUND DISPUTED ISLANDS WAS DUE TO (A) THE FACT THAT US LEGISLATION DID NOT REQUIRE USG TO PROCLAIM A ZONE AROUND DISPUTED ISLANDS; AND (B) THE FACT THAT THE USGHAD NO DESIRE TO EXACERBATE DISPUTED ISLAND ISSUES BY PROCLAIMING 200-MILE ZONES AROUND THEM.

5) EMBOFF REPORTED THAT THE GNZ WOULD PROBABLY BE UNABLE TO AGREE WITH POINTS 1 AND 4 AND THAT HIS GOVERNMENT WOULD PROBABLY BE SENDING THE USG AN OFFICIAL PAPER OF SOME SORT, FOLLOWING CONSULTATIONS WITH THE COOKS, TOKELAUS AND NIUE. EMBOFF NOTED THAT GNZ WOULD BE GOING TO 200 MILES LATER THIS YEAR, BUT HE DID NOT KNOW IF IT WOULD BE A 200-MILE FISHERY OR A 200-MILE ECONOMIC ZONE. EMBOFF SAID IT WOULD BE IMPOSSIBLE FOR THE COOKS AND TOKELAUS TO NOT HAVE SUCH ZONES, INCLUDING THE ISLANDS THE US CLAIMS IN THE NORTHERN COOKS AND THE TOKELAUS. EMBOFF NOTED THAT HIS GOVERNMENT HAD MADE ITS POSITION ON THE US CLAIMS TO THESE ISLANDS KNOWN TO THE USG LAST YEAR IN DIPLOMATIC CORRES-

PONDENCE. EMBOFF SAID THAT UNDOUBTEDLY GNZ WOULD HANDLE SWAIN'S ISLAND IN A DIFFERENT MANNER FROM THE REST OF THE TOKELAUS. HOWEVER, IN THIS REGARD, GNZ COULD NOT AGREE, PURSUANT TO ITS UN OBLIGATIONS, TO THE US POSITION THAT SWAIN'S ISLAND IS UNDISPUTED. HE NOTED THAT THE 200-MILE ZONE AROUND THE COOKS, TOKELAU AND NIUE WOULD PROBABLY BE PROCLAIMED AT ABOUT THE SAME TIME. HOWEVER, HE ALSO MADE THE POINT THAT THE COOKS AND NIUE COULD ESTABLISH THIS LEGISLATION INDEPENDENTLY OF THE GOVERNMENT OF NEW ZEALAND. THE GOVERNMENT OF NEW ZEALAND WILL HAVE TO ESTABLISH THE ZONE AROUND THE TOKELAUS. (THEREFORE, THE GNZ HAS CONTROL OVER THE SWAIN'S ISLAND ISSUE).

6) EMBOFF NOTED THAT UNDER THE CONSTITUTIONAL SYSTEMS GOVERNING RELATIONSHIPS IN THE AREA, GNZ ACTIONS WERE PREDICTED ON CONSULTATIONS WITH THE COOKS, TOKELAUS AND NIUE. LIMITED OFFICIAL USE

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HOWEVER, SUBJECT TO THOSE CONSULTATIONS, THE GNZ WAS INCLINED TO AGREE THAT EQUIDISTANCE IS THE APPROPRIATE PRINCIPLE FOR APPLICATION IN THE AREA(POINT 2). HOWEVER, THE GNZ DID WANT TO HAVE THE OPPORTUNITY TO EXPLORE THE POSSIBILITY OF "SPECIAL FEATURES" BEING PRESENT.

7) EMBOFF CONCLUDED BY NOTING THAT THE BASIC PROBLEM CONTINUED TO BE ONE OF THE CLAIMS TO SPECIFIC ISLANDS IN THE AREA AND RECALLED THAT THE USG WAS STUDYING THE DISPUTED ISLAND QUESTIONS. EMBOFF EXPRESSED THE HOPE THAT THE USG WOULD BE IN A POSITION TO RESOLVE THE CLAIMS ISSUE AT AN EARLY DATE, BEFORE ZONES WERE PROCLAIMED AROUND THESE ISLANDS BY THE GNZ OR THE COOKS.

8) USG OFFICIALS AGREED THAT IT WOULD BE BEST IF THE CLAIMS ISSUES WERE RESOLVED PRIOR TO THE ANNOUNCEMENT OF ZONES AROUND THE DISPUTED ISLANDS BY GNZ OR COOK OR NIUE OFFICIALS. IF THAT OCCURRED, USG WOULD BE FORCED TO PROTECT ITS LEGAL POSITION IN SOME MANNER - POSSIBLY, BY ANNOUNCING A ZONE OF ITS OWN.

9) USG OFFICIALS ASKED EMBOFF TO PROVIDE THE FOLLOWING:

1) ANY TECHNICAL COMMENTS BY THE GNZ ON THE LINES WHICH THE USG HAS DEVELOPED.

2) ANY VIEWS HELD BY THE GNZ REGARDING SPECIAL CIRCUMSTANCES IN THE AREA.

3) TO KEEP THE USG UP TO DATE ON THE STATUS OF THE GNZ OR COOK OR NIUE LEGISLATION.

EMBOFF PROMISED TO PROVIDE THE ABOVE INFORMATION, AND OFFICIALS OF BOTH SIDES AGREED TO KEEP IN TOUCH ON THE MATTER.

10) INTERAGENCY GROUP STUDYING WESTERN PACIFIC DISPUTED LIMITED OFFICIAL USE

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ISLAND ISSUES CONTINUE TO ASSESS THE USG INTERESTS AND BASIC OVERALL DISPUTED ISLAND ISSUES IN WESTERN PACIFIC. DEPT IS HOPEFUL THAT A DECISION OR RECOMMENDATION OF THAT GROUP WILL BE FORTHCOMING BEFORE GNZ OR ITS ASSOCIATED STATES DECLARE ZONES AROUND ANY OF THE DISPUTED ISLANDS. ALTHOUGH USG UNDERSTANDS GNZ POSITION OF PROCLAIMING ZONES AROUND DISPUTED ISLANDS, USG POSITION IS TO DISCOURAGE GNZ FROM SUCH AN ACTION PENDING THE RESOLUTION OF THE DISPUTE.

USG IS PARTICULARLY CONCERNED THAT GNZ NOT PURSUE TOKELAUAN ISLAND CLAIM OR AT LEAST ADOPT A NEUTRAL APPROACH REGARDING SWAIN'S ISLAND.

11) THE ABOVE IS PROVIDED FOR EMBASSY INFORMATION AND BACKGROUND. EMBASSY IS NOT REQUIRED TO TAKE ANY SPECIFIC ACTION. HOWEVER, EMBASSY SHOULD RAISE ISSUE WITH GNZ IF USEFUL OPPORTUNITY OCCURS. ALSO, DEPT WOULD APPRECIATE ANY EMBASSY INFORMATION, GUIDANCE OR SUGGESTIONS ON THESE MATTERS.
VANCE

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Message Attributes

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Capture Date: 01-Jan-1994 12:00:00 am
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Control Number: n/a
Copy: SINGLE
Sent Date: 08-Apr-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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